



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------|---------------------|------------------|
| 09/656,352 | 09/06/2000 | Richard Russell Lattime | GT-4722 | 2642 |

7590

10/23/2002

Robert F. Rywalski, Esq
Assistant Secretary and Chief Patent Counsel
Omnova Solutions
175 Ghent Road
Fairlawn, OH 44333-3300

EXAMINER

JUSKA, CHERYL ANN

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 10/23/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

BEST AVAILABLE COPY

Office Action Summary

Application N .

09/656,352

Applicant(s)

LATTIME ET AL.

Examiner

Cheryl Juska

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,16,17 and 21-34 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 28-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-27 is/are allowed.
- 6) ☒ Claim(s) 2,16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

BEST AVAILABLE COPY**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 2, 16, 17, and 21-27, in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the field of search for both inventions is the same and that the process necessarily makes the product. This is not found persuasive because a search of the method is not required for the product claims and, as noted in the restriction requirement, the product can be made by another method.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 3 and 28-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method.

BEST AVAILABLE COPY

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over DD 208 740 issued to Gaertner et al., in view of US 4,272,419 issued to Force.

Applicant claims a carpet having pile bonded to a backing with a composition comprising carboxylated styrene-butadiene rubber (SBR), a rosin acid soap (RAS), and a filler.

Art Unit: 1771

Gaertner discloses a SBR latex composition having a styrene content of 30-70 pbw and a butadiene content of 70-30 pbw (abstract). The latex may include alkali RAS as an emulsifier. The latex is suitable for bonding carpet materials.

Gaertner fails to teach the use of a filler. However, fillers are well-known in the art of carpet backcoats. For example, Force teaches the use of 400 parts calcium carbonate filler per 100 parts carboxylated SBR latex, as an adhesive backcoat for tufted carpets (Example 1, col. 4, line 41-col. 5, line 2). Therefore, it would have been obvious to one of ordinary skill in the art to employ a filler in the SBR latex of Gaertner.

BEST AVAILABLE COPY

Gaertner also fails to teach that the SBR is carboxylated. However, as noted above, Force teaches the use of carboxylated SBR lattices for carpet backcoats. Thus, it would have been obvious to one skilled in the art to employ a carboxylated SBR for the SBR of Gaertner, since carboxylated SBR's are known in the art to be self-crosslinking (i.e., without the addition of a crosslinking agent). Therefore, claim 2 is rejected as being obvious over the cited prior art.

5. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DD 208 740 issued to Gaertner et al. in view of US 4,272,419 issued to Force, as applied to claim 2 above, and in further view of US 5,278,222 issued to Stack.

Force lacks a specific teaching of the carboxylated SBR composition. Stack teaches commercial available carboxylated SBR latexes include those having 50-70% styrene and 0.2-10% of one or more carboxylic acids, such as acrylic acid, methacrylic acid, itaconic acid, maleic acid, and fumaric acid (col. 7, lines 56-67). Thus, it would have been obvious to one skilled in the art to employ a carboxylated SBR having the claimed composition, since said carboxylated

Art Unit: 1771

SBR's are commercially available. Therefore, claims 16 and 17 are rejected as being obvious over the cited prior art.

Allowable Subject Matter

6. Claims 21-27 are allowed. Independent claim 21 is drawn to a carpet comprising pile, a backing, and a dried latex comprising the inventive latex composition recited in claim 1 of the parent application, 09/032667, now US 6,162,848 issued to Lattime et al.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Cheryl Juska whose telephone number is 703-305-4472. The Examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


CHERYL A. JUSKA
PRIMARY EXAMINER

cj
October 20, 2002

BEST AVAILABLE COPY